Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: National University, Inc.
WestMed College
3031 Tisch Way, Suite 100 Plaza East
San Jose, CA 95128

INSTITUTION CODE: 4304901
CITATION NUMBER: 1617025
CITATION ISSUANCE/SERVICE DATE: October 18, 2016
DUE DATE: November 17, 2016
FINE AMOUNT: $8,503.00
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine and Order of Abatement and Order of Restitution (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to National University, Inc. (NU) Owner of WestMed College (WMC) located at 3031 Tisch Way, Suite 100 Plaza East, San Jose, CA 95128 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

BACKGROUND

On March 18, 2013, March 19, 2013, July 16, 2013, and August 29, 2013, the Bureau for Private Postsecondary Education (Bureau) received four separate complaints about WMC from V.L., N.C, E.H., and C.A. The complaints alleged that WMC employed an unqualified instructor, failed to provide adequate instruction, employed an unprofessional instructor, conducted courses where instruction was not the central focus, failed to meet educational objectives, fraudulently passed students, fraudulently boosted statistics, employed false advertising practices, and mistreated students.

On June 1, 2015, Bureau staff telephoned WMC's Senior Campus Director, D.E. Bureau staff asked D.E. for a school catalog, a student roster, a faculty list, copies of V.L.'s student file, and C.J.'s faculty file. On June 23, 2015, D.E. sent the requested documents to Bureau staff.

In July 2015, Bureau staff telephoned D.E. and requested copies of faculty files for two more instructors, S.T. and S.S. Bureau staff did not receive a response from D.E.

On August 19, 2015, Bureau staff performed a site investigation at WMC's San Jose campus. WMC's Senior Campus Director R.A. could not produce the student and faculty files which Bureau staff requested during the site investigation because he had limited access to WMC's electronic database and was not adequately trained to use that database. In addition, the hard copies for those student and faculty files were stored off site at WMC's Merced campus. It took WMC until October 1, 2015, to produce all of the files Bureau staff requested.

On August 25, 2015, WMC produced a copy of C.A.'s student file that Bureau staff first requested on August 19, 2015.

On August 30, 2015, Bureau staff telephoned WMC's Registrar, S.J. and asked for copies of the faculty files for S.T., S.S., and a student file for V.L. S.J. produced a copy of V.L.'s student file via email on the same date. However, S.J. did not produce copies of the two faculty files Bureau staff requested.

On September 4, 2015, Bureau staff received a copy of S.T.'s faculty file from WMC's Campus Director A.C. via email but did not receive the requested faculty files for S.S.

On September 9, 2015, Bureau staff telephoned NU Associate Director of Human Resources, J.S. Bureau staff left J.S. a voice mail requesting copies of S.S.'s faculty file. Bureau staff did not receive a response.

On September 16, 2015, Bureau staff telephoned J.S. and requested a copy of a faculty file for S.S. Bureau staff had previously requested those faculty files through D.E., S.J., and A.C. Bureau staff explained to J.S. the Bureau's authority to inspect and copy records. Bureau staff also explained that the school is required to maintain records and make them immediately available for inspection. J.S. requested copies of the letters that Bureau staff previously sent to D.E. requesting records.

On September 16, 2015, Bureau staff sent J.S. an email with copies of the letters Bureau staff had previously sent to D.E. Bureau staff requested copies of a faculty file for S.S. in that email. S.J. did not respond.

On October 1, 2015, Bureau staff received an email from NU's Coordinator of Human Resources Operations, M.L. A copy of S.S.'s employee file was attached to that email. However, S.S.'s faculty file did not include an address, records of educational qualifications, or records of work experience.

According to the Board of Registered Nursing (BRN), on February 16, 2013, it revoked S.T.'s nursing license for drug theft. However, WMC continued to employ S.T. for at least 14 months after she notified WMC about the loss of her license. S.T. was adjudicated in an administrative proceeding for committing an act that constituted grounds for the denial of a license, and as a result WMC should not have maintained her as an instructor, per 5, CCR 71720(b)(3).

According to emails written by three former WMC paramedic students, E.H., J.W. and W.T., WMC was not able to place those students into clinical internships within 30 days of completing their didactic lessons as required by CCR Title 22, Division 9, § 100152(c). The didactic portion of their course finished on April 30, 2013. As of June 25, 2013, WMC had not placed E.H., J.W., and W.T. into clinical internships because it did not contract for enough clinical internship placements. It took WMC at least 56 days to place E.H., J.W., and W.T. into clinical internships. These significant delays in placement impeded the students from achieving the educational objectives of the program for which they were enrolled.

The allegations that WMC failed to provide adequate instruction, fraudulently passed students, fraudulently boosted statistics, employed false advertising practices and mistreated students are unsubstantiated.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	**Violation:** CEC 94900.5(b) – Required Institutional Records *"An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:* *(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty."* CEC 94932 - Enforcement Authority *"The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article."* 5, CCR 71930(e) - Maintenance of Records. *"(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."* On August 19, 2015, during a site investigation at WMC, Bureau staff requested copies of faculty files for S.T. and S.S. WMC failed to produce those faculty files because WMC's Senior Campus Director R.A. had limited access to WMC's electronic database and was not adequately trained to use that database. Furthermore, the hard copies for those faculty files were stored at WMC's Merced, California campus. WMC produced a copy of S.T.'s faculty file on September 4, 2015. WMC produced an electronic version of S.S.'s faculty file on October 1, 2015. However, S.S.'s faculty file did not include an address, records of educational qualifications, or records of work experience. **Order of Abatement:** The Bureau orders WMC to maintain complete and accurate faculty files including educational qualifications and work experience. Files need to be readily available upon request to the Bureau, located at WMC's place of business, and must contain the educational qualifications of each member of the faculty, pursuant to CEC 94900.5(b). **Assessment of Fine** The fine for this violation is $501.00
2.	**Violation:** 5, CCR 71930(c)(3), (e) – Maintenance of Records

	"(c) A record is considered current for three years following a student's completion or withdrawal. A record may be stored on microfilm, microfiche, computer disk, or any other method of record storage only if all of the following apply: *(3) The institution has personnel scheduled to be present at all times during normal business hours who know how to operate the devices and can explain the operation of the devices to any person authorized by the Act to inspect and copy records; and* *(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."* CEC 94932 - Enforcement Authority *"The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article."* On August 19, 2015, Bureau staff performed a site investigation at WMC. WMC's Senior Campus Director R.A. could not produce copies of the student files requested by Bureau staff during that site investigation because he had limited access to WMC's electronic database and was not adequately trained to use that database. Furthermore, the hard copies for those student files were stored at WMC's Merced, California campus. WMC did not produce all of the requested student files until August 30, 2015. **Order of Abatement:** The Bureau orders that WMC make all records immediately available to Bureau staff upon request. **Assessment of Fine** The fine for this violation is $501.00
3.	**Violation:** 5, CCR 71710(a) – Educational Program *"In order to meet its mission and objectives, the educational program defined in section 94837 of the Code shall be comprised of a curriculum that includes:* *(a) those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student is enrolled;"* 5, CCR 71715(b) – Instruction *"(b) The institution shall document that the instruction offered leads to the achievement of the learning objectives of each course."* CEC 94885(a)(1), (3) - Minimum Operating Standards *"(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:* *(1) The content of each educational program can achieve its stated objective.* *(3) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals."*

	CCR Title 22, Division 9, 100152(c) - Hospital Clinical Education and Training for Paramedic *"An approved paramedic training program and/or CCP training program shall not enroll any more students than the training program can commit to providing a clinical internship to begin no later than thirty (30) days after a student's completion of the didactic and skills instruction portion of the training program. The paramedic training program course director and/or CCP training program course director and a student may mutually agree to a later date for the clinical internship to begin in the event of special circumstances (e.g., student or preceptor illness or injury, student's military duty, etc.)."* WMC was unable to place three of its paramedic students into clinical internships within 30 days of graduating as required by CCR Title 22, Division 9, § 100152(c). The didactic portion of their course finished on April 30, 2013. As of June 25, 2013, WMC had not placed E.H., J.W., and W.T. into clinical internships because it did not contract for enough clinical internship placements. It took WMC at least 56 days to place E.H., J.W., and W.T. into clinical internships. According to WMC's School Catalog, paramedic students are required to complete 160 clinical internship hours. These delays impeded the student's ability to achieve the educational objectives of the program in which they were enrolled, in violation of 5, CCR 71710(a). **Order of Abatement:** The Bureau orders that WMC place students into clinical internships within 30 days of graduating as required by CCR Title 22, Division 9, § 100152(c). The Bureau further orders WMC to produce a student roster for the paramedic program and evidence of contracts with sufficient clinical sites and placements to accommodate the students enrolled. **Assessment of Fine** The fine for this violation is $5,000.00
4.	**Violation:** 5, CCR 71720 (b)(3)– Faculty *"(b) Instructors in an Educational Program Not Leading to a Degree.* *(3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code."* CEC 94885 (a)(5)- Minimum Operating Standards *"(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur:* *(5) The directors, administrators, and faculty are properly qualified."* B&P 480 (a)(3)(A) – Denial of Licenses *"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:* *(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."* According to the Board of Registered Nursing (BRN), on February 16, 2013, it revoked S.T.'s nursing license for drug theft. However, WMC continued to employ S.T. for at least 14 months after she notified WMC about the loss of her license. S.T. was adjudicated in an administrative proceeding for committing an act that constituted grounds for the denial of a license, and as a result WMC should

	not have maintained her as an instructor, per 5, CCR 71720(b)(3). **Order of Abatement:** The Bureau orders that WMC discontinue employing instructors who were adjudicated for committing an act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code. **Assessment of Fine** The fine for this violation is $2,501.00
	TOTAL ADMINISTRATIVE FINE DUE: $8,503.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$8,503.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5, CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **November 17, 2016**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **October 18, 2016.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **November 17, 2016.** Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Ben Graber, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Ben Graber, Enforcement Analyst, at 916-576-2409 or Benjamin.Graber@dca.ca.gov.

Elainea Shotwell
Enforcement Manager

10/18/16
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail